

THE HONORABLE MARSHA PECHMAN

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

HO-CHUAN CHEN and HOSSEIN  
BARAHIMI,

Plaintiffs,

v.

LINDA DOUGHERTY, JENNIFER  
LINDWALL, and KING COUNTY,

Defendants.

No. CV 04-0987-P

DECLARATION OF JEFFREY NEEDLE  
IN SUPPORT OF REASONABLE  
ATTORNEY FEES

HOSSEIN BARAHIMI,

Plaintiff,

v.

KING COUNTY and SUE  
OSTERHOUDT,

Defendants.

JEFFREY L. NEEDLE

Attorney at Law  
200 Maynard Building  
119 First Avenue South  
Seattle, Washington 98104  
(206) 447-1560 fax (206) 447-1523

Jeffrey Needle, being duly sworn under penalty of the laws of the State of Washington, does hereby declare as follows:

1. That I am attorney for Plaintiff in the above referenced case. That I am competent to testify to the matters contained herein and do so upon personal knowledge.

2. I graduated from American University Law School in 1972. I was on the law review staff and an editor of the law school law journal.

3. I have been in private practice for approximately thirty years. During that period of time I have specialized in civil rights and employment discrimination litigation. Approximately 90 percent of my practice has been devoted to the litigation of civil rights cases. I have litigated civil rights cases in both state and federal court through trial and in appellate courts at all levels *e.g.*, *Burnside v. Simpson Paper*, 66 Wn.App. 510, 832 P.2d 537 *aff'd*, 123 Wn.2d 93 (1994)(age discrimination and handbook claim); *Lucas v. J.C. Penny*, Western District of Washington, #C93-1804C (1996)(race harassment and negligent infliction of emotional distress - affirmed by the Ninth Circuit, unpublished); *Redmon v. Air Industries Corporation*, Western District of Washington, #C95-482WD (1997) (Whistleblower, wrongful discharge); *Woods v. Graphic Communications Union*, 925 F.2d 1195 (9th Cir. 1991)(racially hostile work environment, outrage, failure of duty of fair representation, punitive damages awarded); *Wollert v. Rent A Center*, King County Cause No. 91-2-16364-2 (retaliation under state and federal law for assisting in a race discrimination claim - Section 1981 punitive damages awarded); *McGinnis v. Kentucky Fried Chicken*, 42 F.3rd 1273 (9th Cir. 1994)(disability discrimination, punitive damages awarded); *McAllister v. City of Seattle*, King County Cause No. 94-2-26770-1 (1998)(Section 1983 - false arrest); *Altshuler v. City of Seattle*, 63 Wn.App. 389, 819 P.2d 393 (1991)(Qualified immunity under

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Section 1983); *Ude v. Diamond Parking*, King County Cause No. 95-2-18888-5 SEA (1998) (failure to promote on basis of race Section 1981 - punitive damages awarded); *Rendish v. City of Tacoma, et al*, C96-5780RJB, May, 1999)(Retaliation - First Amendment (*Monell*) and RCW 49.60); *Swinton v. U.S. Matt Corp.*, 270 F.3d 794 (9<sup>th</sup> Cir. 2001)(Section 1981 - racially hostile work environment - punitive damages awarded); *Bonner v. Normandy Park*, C07-0962 RSM (2008)(Section 1983 excessive force - punitive damages awarded).

4. I have been on the Board of Directors of the Washington Employment Lawyers Association (WELA) since it inception, and the Chair of the WELA Amicus Committee since 1998; member of the ACLU-W Legal Committee since 1983; member of the National Employment Lawyers Association (NELA) Amicus Committee; Member of the American Association of Justice (formerly ATLA) amicus committee and Co-State Coordinator for Public Justice (formerly TLPJ). I have written dozens of amicus briefs in both state and federal court; including the United States Supreme Court: *Gross v. FLB Financial Servicer*, \_\_\_ U.S. \_\_\_ (2009)(pending - amicus for AAJ (formerly ATLA) - direct evidence not required for mixed motive instruction under ADEA); *Collins v. Harker Heights, Tex.*, 503 U.S. 115, 112 S.Ct. 1061, 117 L.Ed.2d 261 (1992)(Amicus for ATLA - deliberate indifference standard, Section 1983); *Kolstad v. American Dental Association*, 527 U.S. 526, 119 S.Ct. 2118, 144 L.Ed.2d 494 (1999)(Amicus for ATLA - standard for punitive damages in a Title VII case); *Desert Palace, Inc. v. Costa*, 539 U.S. 90, 23 S.Ct. 2148, 156 L.Ed.2d 84 (2003)(Amicus for ATLA - direct evidence not required for mixed motive jury instruction under Title VII); *EEOC v. BCI Coca Cola*, (2006)(Amicus for ATLA - Cat's paw defense to vicarious liability - petition dismissed pending oral argument; *Chavez v. Martinez*, 538 U.S. 760, 123 S.Ct. 1994, 155 L.Ed.2d 984 (2003) (Amicus for ATLA - qualified immunity under Section 1983).

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1  
2  
3 5. I am past Chairman of ATLA's Civil Rights Section and continue on its Executive  
4 Committee. I am past Chair of ATLA's Employment Rights Section - approximately 1200 members,  
5 and continue on its Executive Committee. I am past Chair of ATLA's Section Leaders' Council, and  
6 served on the Legal Affairs and Constitutional Litigation committees. I was the Chairman of the  
7 Civil Rights Section of the Washington State Trial Lawyers Association (WSTLA) from 1986 to  
8 1992. I have served on additional committees too numerous to mention.

9  
10 6. I have published approximately 40 columns and articles on various civil rights issues in  
11 the *Trial News*, a publication of the Washington State Trial Lawyers Association. I have also written  
12 civil rights related book reviews and articles on punitive damages and qualified immunity in civil  
13 rights cases for *Trial Magazine*, the publication of ATLA. My most recent publication for *Trial*  
14 *Magazine* is in June, 2008: "Defeat the Cat's Paw Defense to Vicarious Liability."

15  
16 7. I have been a speaker at numerous continuing legal education seminars on a number of  
17 different civil rights related topics. Within the last year I have spoken at seminars sponsored by the  
18 National Employment Lawyers Association and Washington Employment Lawyers Association. I  
19 was invited to speak at a seminar sponsored by the American Bar Association last October, but was  
20 unable to do so because of schedule conflict.

21  
22 8. The fee agreement with my client was a contingency type fee agreement. I have received  
23 no compensation of any kind whatsoever for the services performed in the above-referenced case.

24  
25 9. The time I spent prosecuting this law suit necessarily precluded gainful employment in  
26 other fee generating legal matters.

27  
28 10. Attached hereto as Exhibit A is a breakdown of the time spent on the case to date. I have  
made a good faith effort to exclude hours that are excessive, redundant, or otherwise unnecessary.

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Many brief telephone calls, email communications and internal conferences have not been recorded. Exhibit A was compiled from detailed time records **contemporaneously** logged by the undersigned.

11. My usual billing rates for a civil rights case is \$400 per hour. The rate reflects my special expertise in the subject of civil rights. The rate does not reflect the contingent nature of the case or the delay in payment.

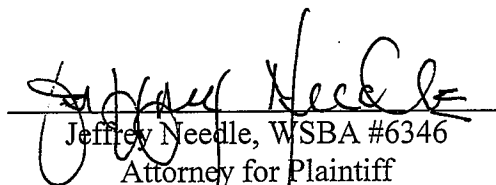
12. My paralegal Kathleen Kindberg has worked for me for approximately 10 years. She is a graduate of Arizona State University. Prior to working for me, Ms. Kindberg worked for both the University of Washington and Washington State Department of Transportation investigating EEO complaints. Ms. Kindberg's logged hours are attached. Exhibit B. The billable rate for Ms. Kindberg's time is \$110 per hour. The utilization of a paralegal in this case significantly diminished the amount of attorney time which otherwise would have been required.

13. My request for reasonable attorney fees is summarized as follows:

**Attorney fees**

Jeffrey Needle - 272.75 hours @ \$400 per hour	\$109,100
Kathleen Kindberg 22 hours @ \$110 per hour	<u>2,420</u>
Total Attorney Fees	\$111,520

Dated in Seattle this 1st day of June, 2009.

  
 Jeffrey Needle, WSBA #6346  
 Attorney for Plaintiff

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04-0987 P

Jeffrey Needle

DATE	TASK	HOURS
12/15/08	review summary judgment pleadings	1.50
12/17/08	meeting w/Susan Mindenbergs - review case status	1.00
12/19/08	meeting w/Susan Mindenbergs and client	1.00
12/23/08	meeting w/Susan Mindenbergs	.75
12/23/08	meeting w/Susan Mindenbergs, Keith Scully	2.00
	research 1 <sup>st</sup> Amendment participation v. opposition	1.75
12/26/08	review summary judgement pleadings	1.00
12/29/08	meeting w/Susan Mindenbergs re Pretrial Order	.75
01/05/09	consult w/Susan Mindenbergs re: Rule 32	.50
01/08/09	meeting Jury Inst. - Susan Mindenbergs, Keith Scully	2.25
01/12/09	Rule 16 conf	4.00
01/13/09	work on pre-trial order/Jury Instructions	4.00
01/18/09	work on Plaintiff's exhibits	5.25
01/19/09	work on Plaintiff's exhibits	4.50
01/20/09	work on response to motion in limine	6.50
01/23/09	review special master brief	1.00
02/01/09	work on trial brief	2.00
02/02/09	review master report; trial brief - new 1 <sup>st</sup> amendment instruction	2.50
02/03/09	court conference	.75
	trial brief	2.00
02/04/09	jury instruction conf	2.00

DATE	TASK	HOURS
02/04/09	trial brief; review jury instruction from Scully	.50
02/05/09	work on jury instructions	9.0
02/09/09	pretrial conference	3.25
02/12/09	research public concern (Rendish)	.50
02/13/09	public concern brief	2.25
02/16/09	public concern brief	1.00
	meeting with Susan Mindenbergs re: privilege and offer of proof	.75
	brief offer of proof re: comparables	1.00
02/20/09	judicial conference	.50
02/23/09	meeting with Susan Mindenbergs/review neutral statement	.50
02/24/09	review agreed upon facts - email to counsel and clients	.50
02/26/09	meeting with Susan Mindenbergs and Keith Scully re: witnesses/trial strategy	2.50
	meeting with Susan Mindenbergs/Barahimi - testimony	.50
02/27/09	meeting with Susan Mindenbergs - pretrial order	.50
03/05/09	work on supplemental instruction	.50
03/09/09	prepare for pretrial conference	2.00
	pretrial conference	1.5
03/11/09	conf with Susan Mindenbergs/Keith Scully re: request for additional briefing	.50
03/12/09	research qualified immunity	1.25
	t/c Susan Mindenbergs re: qualified immunity	.25
03/06/09	meeting with plaintiff, co-counsel; prep plaintiff for direct	5.00
03/15/09	prep chen for direct/cross	3.50

DATE	TASK	HOURS
03/17/09	meeting w/Susan Mindenbergs re: cross-exam Osterhoudt	.50
	Read Lindwall deposition	5.00
03/18/09	conference Keith Scully/Susan Mindenbergs re: jury instruction	.50
	Pretrial conference re: jury instructions	2.25
	Read Dougherty deposition	1.00
03/19/09	work on Dougherty cross	3.00
	Meeting with Susan Mindenbergs and clients re: direct and cross	1.00
	meeting on Susan Mindenbergs re: opening	1.00
03/20/09	work on Dougherty cross	3.00
03/21/09	work on Dougherty and Lindwall cross	2.00
	meet with Susan Mindenbergs and client re: plaintiff direct and cross	2.50
	meeting with Susan Mindenbergs re: proof and elements	1.00
03/22/09	trial prep - jury selection; cross exam Lindwall & Dougherty.	5.00
03/23/09	travel court and back	.75
	trial	6.00
	trial prep - Barahimi direct/cross	1.25
	trial prep - Dougherty and Lindwall cross	1.50
03/24/09	travel court and back	.75
	trial	5.50
03/25/09	travel court and back	.75
	trial	5.50
	prep prior to travel	1.00



DATE	TASK	HOURS
	meet client - lunch hour	.50
	work on closing	1.00
03/26/09	travel court and back	.75
	trial prep	.25
	trial	5.50
	meeting with client and attorneys after trial	.50
03/27/09	work on closing	1.75
03/28/09	meeting with Susan Mindenbergs re: Osterhoudt cross	1.00
	prepare Deveraux exam; read Deveraux deposition	4.00
03/29/09	trial prep/Dougherty/Lindwall	3.00
03/30/09	trial prep meeting	.50
	travel to court and back	.75
03/30/09	trial	5.50
	review Galteriari/Shively cross	1.50
03/31/09	trial prep	.50
	travel to court and back	.75
	trial	5.50
	prep J.Osborne/read deposition	4.00
	prep cross	
	prep cross Bruce Taylor	3.00
04/01/09	prep trial	.75
	travel to court and back	.75
	trial	5.50
	prep J. Lindwall - lunch	1.00
	prep cross Lindwall and Dougherty	4.00

DATE	TASK	HOURS
	jury instruction - supplemental; verdict form	2.00
04/02/09	travel to court and back	.75
	trial	5.50
	trial prep - lunch	1.00
04/03/09	t/c Mickey Gendler	.75
	meeting w/Susan Mindenbergs re: closing; Lindwall cross; courts instruction	2.00
	t/c Keith Scully re: closing	.50
	Court's instructions	1.00
	work on closing	1.00
04/03/09	review Exh. Index	.50
	work on closing	3.00
04/05/09	work on Lindwall cross	2.25
	work on closing	5.00
04/06/09	travel to court and back	.75
	prep over lunch	.50
	trial	5.50
04/07/09	question from jury	.25
04/08/09	question from jury	.25
04/13/09	KIRO radio - interview with clients	.50
	meeting w/Susan Mindenbergs and Keith Scully re: post trial motions	.50
04/15/09	t/c Susan Mindbenbergs and Keith Scully re: entry of judgment	.25
	t/c Susan Mindenbergs re: post verdict motions & Pickering	.50
04/20/09	t/c Susan Mindbenbergs re: post verdict motions	.50

DATE	TASK	HOURS
	research Pickering/qualified immunity	2.25
04/21/09	work on Pickering motion/judgment	3.50
04/22/09	work on Pickering motion/judgment	5.00
04/23/09	read defendant's post trial motion	4.25
	t/c Susan Mindenbergs and Keith Scully re: motion to strike	.25
	work on response to motion for Findings & Concl.	1.25
04/30/09	meet w/Susan Mindenbergs & Keith Scully re: responsive briefing	1.00
05/01/09	work on response to Findings & Conclusions	2.25
05/04/09	work on response to F&C	3.25
05/05/09	work on response to F&C	3.00
05/06/09	work on response to F&C	5.00
05/07/09	work on response to F&C	2.25
05/11/09	work on response to F&C	1.50
	read Chen/Barahimi responses to Rule 52/Rules 50 motions	1.50
05/12/09	work on reply brief motions	2.25
05/14/09	work on reply brief motions	2.50
05/15/09	work on reply brief motions	2.50
05/16/09	review defendants reply	2.25
05/22/09	work on fee petition	1.25
05/26/09	work on fee declaration	1.00
05/28/09	work on fee petition	.75
05/28/09	work on fee declaration and time log	1.50
Total Hours		272.75

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Paralegal Hours - Kathleen Kindberg

DATE	TASK	TIME
01/21/09	proof/file response motions in limine	1.00
01/30/09	John Shively interview - take contemporaneous notes	1.50
01/31/09	assist with trial exhibits	6.0
02/04/09	draft/send public disclosure request to King County re: opposing counsel attorney fees	.50
02/13/09	draft/send public disclosure request to King County re: opposing counsel attorney fees	.50
02/23/09	proof/file brief re: comparables	1.0
03/16/09	compose Shively report from notes for attorney	2.0
03/18/09	Dep index - Jennifer Lindwall	2.0
03/19/09	assist with pretrial order - filing	1.0
03/27/09	compile Osborne entries from privilege log	1.0
	compile Devereaux entries from privilege log	1.0
	Compose privilege log summary	.50
04/01/09	proof file/motion for entry of judgment	1.0
04/16/09	draft/send public disclosure request to King County re: opposing counsel attorney fees	.50
04/27/09	draft/send public disclosure request to King County re: opposing counsel attorney fees	.50
05/08/09	proof/create tables/file response to defendant's post trial motions	2.0
05/26/09	draft/send public disclosure request to King County re: opposing counsel attorney fees	.5
<b>TOTAL</b>		<b>22.00</b>

Summary of fees: